

U.S. Patent Application No. 09/589,822  
Reply to Office Action dated September 14, 2005

PATENT  
450108-4457.1

### **REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

#### **I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 8-11 are currently pending. Claim 8 is independent. Claims 8, 10 and 11 are hereby amended and, therefore, overcome the claim objections. Claims 1-7 and 9-122 were canceled, as indicated in the Application Transmittal Sheet filed on June 7, 2000. No new matter is added by these amendments. Support for the amended recitations in the claims is found throughout the Specification, specifically at pages 25-26. Changes to claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

#### **II. REJECTIONS UNDER 35 U.S.C. §102(e)**

Claims 8-9 were rejected under 35 U.S.C. §102(e) as being allegedly anticipated by U.S. Patent No. 6,044,396 to Adams, Michael B. (hereinafter, merely "Adams").

Claims 8 recited, *inter alia*:

"A data multiplexing device comprising:

...a switch control means which selects, according to an input rate for said packet data strings, said plurality of buffer memories switchable by said switch means,

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wherein the input rate is a bit rate used as an index in reference to an amount of encoded bits generated by an encoding controller.”  
(emphasis added)

As understood by Applicants, Adams relates to a system for utilizing the available bit rate in a constrained variable bit rate channel. The transmission of encoded information streams is controlled by limiting a variable bit rate to a predetermined maximum value. A multiplexer multiplexes the encoded information streams with a secondary information stream for transmission over the channel. The rate of the secondary information stream may be controlled by a transmission control protocol where the rate is adjusted by adjusting a transmit window of the protocol. Encoded information streams are given higher priority than the multiplexed information streams. A selector allocates the information streams in accordance with the priority allocation based on content of the information streams, i.e. video data receives higher priority than application data.

Applicants submit that Adams does not teach or suggest the above-identified features of claim 1. Specifically, Applicants submit Adams does not teach or suggest a switch control means which selects, according to an input rate for said packet data strings, said plurality of buffer memories switchable by said switch means, wherein the input rate is a bit rate used as an index in reference to an amount of encoded bits that are generated by an encoding controller, as recited in claim 8.

Therefore, Applicants submit that claim 8 is patentable.

### III. DEPENDENT CLAIMS

The other claims are dependent from one of the independent claims, discussed above, and are therefore believed patentable for at least the same reasons. Since each dependent

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claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

### CONCLUSION


In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, it is respectfully requested that the Examiner specifically indicate those portions of the reference, providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully requests early passage to issue of the present application.

Respectfully submitted,

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